

Bond No. 10BSBEY7938

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
PEDIPED INFANT FOOTWEAR LLC,

Plaintiff(s)

vs.

KUDOS LEATHERGOODS LTD. d/b/a  
JACK AND LILY, AND ROBERT THOMAS  
BUELL,

Defendant(s)

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 6/24/08

UNDERTAKING ON  
PRELIMINARY INJUNCTION

INDEX No: 08 Civ 3572 (LTS)(THK)

WHEREAS, the Plaintiff(s) PEDIPED INFANT FOOTWEAR LLC.  
above named, is/are about to apply or has/have applied for a Preliminary Injunction in the above entitled action, restraining the  
Defendant(s).  
from doing certain things more fully described in the order dated June 19, 2008.

NOW, THEREFORE, the HARTFORD FIRE INSURANCE COMPANY, having an office and principal place of  
business for the State of New York at c/o The Hyde Agency 321 Broadway, New York, NY 10007  
does hereby, pursuant to the Statute in such case made and provided, undertake that the Plaintiff(s) will pay to the Defendant(s)  
Kudos Leathergoods Ltd. d/b/a Jack and Lily, and Robert Thomas Buell  
so enjoined, such damages and costs not exceeding the sum of Twenty Five Thousand and No/100--  
Dollars (\$ 25,000.00 ), as Kudos Leathergoods Ltd. d/b/a Jack and Lily, and Robert Thomas Buell  
may sustain by reason of the injunction, if the Court shall finally decide that the Plaintiff(s) is/was not entitled thereto; such damages  
and costs to be ascertained by a reference, or otherwise as the Court shall direct.

Dated June 20, 2008

CGB25502NY1099f

Approved  
6/24/08  
S. Michael  
check  
By R. K.  
Att. Clerk

HARTFORD FIRE INSURANCE COMPANY

By

Lourdes Scheel

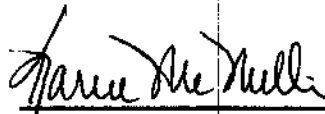
Attorney-in-Fact

**ACKNOWLEDGMENT OF SURETY**

**STATE OF NEW YORK }**

**COUNTY OF New York } ss:**

On the 20th day of June in year 2008 before me personally came  
Lourdes Scheel to me known, who being by me duly sworn, did  
depose and say that he/she resides at New York,  
that he/she is the Attorney-in-Fact of HARTFORD FIRE INSURANCE COMPANY, the  
corporation described in and which executed the above instrument; that he/she knows the corporate seal of said  
corporation, that the seal affixed to such instrument is such corporate seal: that it was so affixed by order of the  
Board of Directors of said corporation, and, that he/she signed his/her name thereto by like order; and that said  
corporation is duly authorized to transact business in the State of New York in pursuance of the statutes of such  
case made and provided, that the Superintendent of insurance of the State of New York, has, pursuant to Chapter  
28 of the Consolidated Laws of the State of New York, known as the Insurance Law, issued to  
HARTFORD FIRE INSURANCE COMPANY  
a Certificate of Solvency and qualification to become surety or guarantor on all bonds, undertakings,  
recognizances, guaranties and other obligations required or permitted by law and that such certificate has not been  
evoked.

  
\_\_\_\_\_  
Notary Public

**KAREN McMULLIN**  
Notary Public, State of New York  
No. 01MC2634678  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires March 30, 2011

# POWER OF ATTORNEY

THE HARTFORD  
BOND, T-4

P.O. BOX 2103, 690 ASYLUM AVENUE  
HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 10-257086

KNOW ALL PERSONS BY THESE PRESENTS THAT:

- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

Ann Ferrari of Morristown, NJ;  
Debra Pomponi Mackey of Stoneham, MA;  
David J. Smith, Lourdes Scheel of New York, NY

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Paul A. Bergenholtz*

Paul A. Bergenholtz, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 1<sup>st</sup> day of February, 2004, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
Notary Public

My Commission Expires October 31, 2012

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of June 20, 2008  
Signed and sealed at the City of Hartford:



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President

**Hartford Fire Insurance Company****Hartford Plaza****Hartford, Connecticut, 06115***Financial Statement, December 31, 2007*

(Statutory Basis)

**ASSETS****LIABILITIES**

U.S. Government Bonds .....	\$	96,315,402
Bonds of other Governments .....		115,429,244
State, County, Municipal and		
Miscellaneous Bonds .....		13,278,666,144
Stocks .....		7,229,859,113
Short Term Investments .....		81,552,392
	<b>\$</b>	<b><u>20,801,822,295</u></b>
Real Estate .....	\$	97,816,920
Cash .....		182,651,749
Agents' Balances (Under 90 Day).....		2,772,916,039
Other Invested Assets .....		685,938,002
Miscellaneous .....		2,029,404,445
<b>Total Admitted Assets .....</b>	<b>\$</b>	<b><u>26,570,549,450</u></b>

Reserve for Claims	\$	
and Claim Expense.....		6,940,486,736
Reserve for Unearned Premiums .....		2,102,566,290
Reserve for Taxes, License		
and Fees .....		78,943,436
Miscellaneous Liabilities .....		3,006,294,799
<b>Total Liabilities .....</b>	<b>\$</b>	<b><u>12,128,291,261</u></b>
Capital Paid In	\$	54,740,000
Surplus .....		14,387,518,189
<b>Surplus as regards Policyholders...</b>	<b>\$</b>	<b><u>14,442,258,189</u></b>
<b>Total Liabilities, Capital</b>		
<b>    and Surplus .....</b>	<b>\$</b>	<b><u>26,570,549,450</u></b>

STATE OF CONNECTICUT  
COUNTY OF HARTFORD  
CITY OF HARTFORD

}

ss.

Colleen Mastroianni, Vice-President, and Patricia A. Murrone, Assistant Secretary of the Hartford Fire Insurance Company, being duly sworn, each deposes and says that the foregoing is a true and correct statement of the said company's financial condition as of December 31, 2007.

Subscribed and sworn to before me this 5<sup>th</sup>  
day of March, 2008.



Scott E. Paseka  
Notary Public  
My Commission Expires October 31, 2012



*Colleen Mastroianni*  
Colleen Mastroianni, Vice-President

*Patricia A. Murrone*  
Patricia A. Murrone, Assistant Secretary

**CERTIFICATE OF SOLVENCY UNDER SECTION 1111 OF THE NEW YORK  
INSURANCE LAW**

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

It is hereby certified that

Hartford Fire Insurance Company  
of Hartford, Connecticut

a corporation organized under the laws of the State of Connecticut and duly authorized to transact the business of insurance in this State, is qualified to become surety or guarantor on all bonds, undertakings, recognizances, guaranties and other obligations required or permitted by law; and that the said corporation is possessed of a capital and surplus including gross paid-in and contributed surplus and unassigned funds (surplus) aggregating the sum of \$14,442,258,189 (Capital \$55,320,000) as is shown by its sworn financial statement for the quarter ended December 31, 2007 on file in this Department, prior to audit.

The said corporation cannot lawfully expose itself to loss on any one risk or hazard to an amount exceeding 10% of its surplus to policyholders, unless it shall be protected in excess of that amount in the manner provided in Section 4118 of the Insurance Law of this State.



In Witness Whereof, I have here-  
unto set my hand and affixed the  
official seal of this Department  
at the City of Albany, this 31<sup>st</sup>  
day of March, 2008.

**Eric R. Dinallo**  
**Superintendent of Insurance**

By *Clark J. Williams*  
**Clark J. Williams**  
**Special Deputy Superintendent**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PEDIPED INFANT FOOTWEAR LLC,

Plaintiff,

-v-

No. 08 Civ. 3572 (LTS)(THK)

KUDOS LEATHERGOODS LTD. d/b/a  
Jack and Lily, and ROBERT THOMAS BUELL,  
Defendants.  
-----X

**ORDER GRANTING PRELIMINARY INJUNCTION<sup>1</sup>**

For the reasons stated on the record of the June 19, 2008, hearing before the undersigned on Plaintiff's application for preliminary injunctive relief, it is hereby ORDERED, that:

Defendants, their officers, agents, servants, employees, franchisees, licensees, attorneys, parents, subsidiaries, related companies, and all others in active concert with Kudos Leathergoods Ltd d/b/a Jack and Lily, Robert Thomas Buell, and/or one or more of the foregoing, and each of them, who receive actual notice of this Order, are hereby preliminarily restrained and enjoined, pending the final resolution of Plaintiff's claims for injunctive relief, from manufacturing, advertising, offering for sale, selling, distributing, marketing, transporting, delivering, or in any way attempting to sell or resell the products and packaging identified in Exhibit A and any products or packaging embodying trade dress compromising a substantial portion of the following:

- A. with respect to design, a black sole with highly visible white hand-stitching, spaced to

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<sup>1</sup> The ECF system provides notice of the entry of this Order to each party that has both entered an appearance in this case and registered with ECF. The ECF-registered attorneys are responsible for providing notice to any co-counsel whose e-mail addresses are not reflected on the ECF docket for this case, and Plaintiff's counsel, upon receiving notice of this Order, is hereby ordered to fax or otherwise deliver promptly a copy to all parties who are not represented by ECF-registered counsel. A certificate of such further service shall be filed within 5 days from the date hereof. Counsel who have not registered for ECF are ordered to register immediately as filing users in accordance with the Procedures for Electronic Case Filing.

create a stylized rippled effect around the entire shoe; a profile which creates an asymmetrical, rounded-boxy and formed look; a roomy toe box; a sole visually small compared to the upper; and a white sewn-in tag on the end of the Velcro strap, such characteristics being illustrated by Exhibit B hereto;

- B. with respect to packaging, a sturdy, purple, textured, and hinged box with a clear plastic window; the logo and tag line situated above the plastic window, with the tag line printed in smaller font; a description of the product positioned at the bottom of the box, below the window; the left and right sides of the box adjoining the window of equal proportion to each other; the top portion of the box adjoining the window more than twice the height of the bottom portion of the box adjoining the window, and the logo and company information on the back of the box, and a cloth carrying handle on the top of the box, such characteristics being illustrated by Exhibit C hereto;

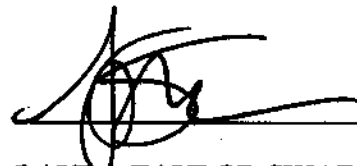
and further that Plaintiff shall post security in the amount of \$25,000 with the Clerk of Court within three (3) days of the entry of this Order.

This Order terminates Docket Entry No. 9.

SO ORDERED.

Dated: New York, New York

June 19, 2008

  
LAURA TAYLOR SWAIN  
United States District Judge



**BAKER & HOSTETLER LLP**

Thomas A. Canova (TC 7270)  
45 Rockefeller Plaza  
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Cleveland, OH 44114  
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Facsimile: (216) 696-0740

Attorneys for Plaintiff  
pediped Infant Footwear LLC

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PEDIPED INFANT FOOTWEAR LLC,

Plaintiff,

v.

KUDOS LEATHERGOODS LTD d/b/a  
JACK AND LILY and ROBERT THOMAS  
BUELL, Individually,

Defendants.

CASE NO. 08-CIV-3572 (LTS)

**CERTIFICATE OF SERVICE**

The undersigned associate of the attorneys named above does hereby certify that on this 20th day of June, 2008, service of true and correct copies of the documents identified below in connection with Plaintiff's bond in the above-captioned case was made upon (1) Roderick H. McCloy and Seema Lal, Shapiro Hankinson & Knutson Law Corporation, 700-555 Burrard Street, Vancouver, BC V7X 1M8, by facsimile to 604-684-7094 and email to rhm@shk.ca and



slal@shk.ca; (2) Kudos Leathergoods Ltd d/b/a Jack and Lily, 720 Alexander Street, Vancouver, BC V6A 1E3, by facsimile to 604-254-6333 and email to info@jackandlily.com; and (3) Robert Thomas Buell, 7370 Laburnum Street, Vancouver, BC V6P 5N3, by facsimile to 604-254-6333 and email to info@jackandlily.com.

In addition, the undersigned hereby certifies that on this 20th day of June, 2008, service of true and correct copies of the documents identified below in connection with Plaintiff's bond in the above-captioned case was requested upon Kudos Leathergoods Ltd d/b/a Jack and Lily at 720 Alexander Street, Vancouver, BC V6A 1E3; Robert Thomas Buell in his individual capacity at 720 Alexander Street, Vancouver, BC V6A 1E3; and Robert Thomas Buell in his individual capacity at 7370 Laburnum Street, Vancouver, BC V6P 5N3, pursuant to the Convention on the Service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

The documents served are as follows:

- (1) Undertaking on Preliminary Injunction
- (2) Acknowledgment of Surety
- (3) Power of Attorney
- (4) Financial Statement, December 31, 2007
- (5) Certificate of Solvency Under Section 1111 of the New York Insurance Law
- (6) Order Granting Preliminary Injunction and Exhibits



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